

before movement (after making adjustments consistent with those made under § 9901.371(e) for employees who convert to NSPS). For this purpose and for the purpose of applying 5 U.S.C. chapter 75, subchapter II (dealing with adverse actions), at the point of movement into NSPS, an employee's rate of basic pay includes any applicable locality payment under 5 U.S.C. 5304, special rate supplement under 5 U.S.C. 5305, local market supplement under § 9901.332, or equivalent payment under other legal authority.

(h) *Adjustment of annual rates for employees leaving certain teaching positions.* When an individual leaves a teaching position as defined in 20 U.S.C. 901 and moves to a position covered by NSPS, the individual's existing annual base salary rate for the teaching position may be adjusted for the purpose of setting pay under NSPS. The adjustment will take into account the shorter work year applicable to the teacher position. The adjustment may not exceed 20 percent of the existing annual base salary rate of the teaching position.

**§ 9901.352 Setting an employee's starting pay.**

(a) Subject to the requirements of this section, the Secretary may set the starting base salary rate for individuals who are newly appointed or reappointed to the Federal service anywhere within the rate range of the assigned pay band (subject to any applicable control points). Pay will be set based upon the following considerations:

(1) Labor market considerations (*i.e.*, availability of candidates and labor market rates);

(2) Specialized skills, knowledge, and/or education possessed by the employee in relation to the requirements of the position;

(3) Critical mission or business requirement(s);

(4) Salaries of other employees in the organization performing similar work; and

(5) Current salary of the candidate.

(b) For the purposes of this section, "newly appointed" means those individuals who have not previously been employed in the Federal service—*i.e.*, this is their first Federal appointment. The

term "reappointed" means those individuals who have been previously employed in the Federal service and have been separated from the Federal service for at least 1 full workday immediately before employment in an NSPS position. The term "Federal service" includes civilian service as an employee of any entity of the Federal Government, including the judicial branch, legislative branch, and executive branch (including Government corporations, the Postal Regulatory Commission, the U.S. Postal Service and any nonappropriated fund (NAF) instrumentality described in 5 U.S.C. 2105(c)).

**§ 9901.353 Setting pay upon reassignment.**

(a)(1) A reassignment occurs when an employee moves, voluntarily or involuntarily, to a different position or set of duties within his/her pay band or to a position in a comparable pay band, or from a non-NSPS position to an NSPS position at a comparable level of work, on either a temporary or permanent basis. In NSPS, employees may be eligible for an increase or decrease to base salary upon temporary or permanent reassignment as described in this section.

(2) An employee who is reassigned through reduction-in-force (RIF) procedures is not eligible for an increase to base salary under this section (except as necessary to set the employee's rate at the band minimum), but is eligible for an increase under § 9901.351(c)(1). An employee's base salary will be protected by applying pay retention under § 9901.356, if applicable.

(3) A decision to increase an employee's pay under this section will be based on one or more of the following factors:

(i) A determination that an employee's responsibilities will significantly increase;

(ii) Critical mission or business requirements;

(iii) Need to advance multi-functional competencies;

(iv) Labor market conditions (*i.e.*, availability of candidates and labor market rates);

(v) Reassignment from non-supervisory to supervisory position;